

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

United States of America

v.

Derrick McKnight Cook,

Defendant.

) Cr. No. 0:03-01141-MBS

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OPINION AND ORDER

This matter is before the court on Defendant Derrick McKnight Cook's motion to correct sentence under 28 U.S.C. § 2255, which was filed on May 16, 2016. Defendant argues that in light of the Supreme Court's holding in Johnson v. United States, 135 S. Ct. 2551 (2015), he no longer qualifies as an armed career offender and his sentence should be vacated. On June 13, 2016, the government filed a response agreeing that Defendant's motion should be granted and he should be resentenced without the armed career criminal enhancement.

The court **grants** Defendant's amended motion for relief under 28 U.S.C. § 2255. ECF No. 55. The judgment order in the within action entered August 2, 2004, is **vacated**, and this matter is set for resentencing on Tuesday, July 19, 2016. A notice of hearing will be issued separately. Additionally, the court **denies as moot** Defendant's original motion for relief under 28 U.S.C. § 2255, ECF No. 36, and the court **denies as moot** the government's Motion for Summary Judgment, ECF No. 40.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

Senior United States District Judge

Columbia, South Carolina

June 14, 2016